

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE DISTRICT OF NEW JERSEY**

3                   \_\_\_\_\_  
4   **UNITED STATES OF AMERICA, et      CIVIL ACTION NUMBER:**  
5   **al,**  
6           **Plaintiffs,**                                   **3:12-cv-07758-ZNQ-JBD**  
7           **v.**   **JURY TRIAL - VOLUME 23**  
8           **JOHNSON & JOHNSON, JANSSEN**  
9   **PRODUCTS, L.P.**  
10           **Defendants.**

11                   \_\_\_\_\_  
12           Clarkson S. Fisher Building & U.S. Courthouse  
13           402 East State Street  
14           Trenton, New Jersey 08608  
15           June 13, 2024  
16           Commencing at 9:00 a.m.

17   **B E F O R E:**                                   **THE HONORABLE ZAHID N. QURAISHI,**  
18   **UNITED STATES DISTRICT JUDGE**

19   **A P P E A R A N C E S:**

20           REESE MARKETOS  
21           BY:   PETE MARKETOS, ESQUIRE  
22                   JOSH RUSS, ESQUIRE  
23                   ANDREW WIRMANI, ESQUIRE  
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40   Proceedings recorded by mechanical stenography; transcript  
41           produced by computer-aided transcription.

1 (PROCEEDINGS held in open court before The Honorable  
2 ZAHID N. QURAIISHI, United States District Judge, on June 13,  
3 2024, at 9:07 a.m.)

4 THE DEPUTY COURT CLERK: All rise.

5 THE COURT: All right, folks. You may be seated.  
6 Good morning. Let me get appearances from counsel, beginning  
7 with the Relators.

8 MR. MARKETOS: Good morning, Your Honor.  
9 Pete Marketos for the Relators.

10 MR. RUSS: Good morning. Josh Russ for Relators.

11 MR. WIRMANI: Andrew Wirmani for Relators, Judge.

12 MS. WENDEL: Good morning. Whitney Wendel for  
13 Relators.

14 THE COURT: All right. Good morning, folks.

15 MS. BROWN: Good morning, Your Honor. Alli Brown for  
16 Janssen.

17 MR. WYATT: Good morning, Your Honor. Geoff Wyatt  
18 for Janssen.

19 MR. KLEIN: Good morning, Your Honor. Brad Klein for  
20 Janssen.

21 THE COURT: Good morning, folks. Anything we need to  
22 chat about before -- I do have a communication. This is how  
23 the day starts, so anything we need to talk about before I go  
24 through this jury communication?

25 MR. MARKETOS: No, Your Honor. Thank you.

1 THE COURT: Ms. Brown?

2 MS. BROWN: No. Thank you, Judge.

3 THE COURT: We just received Jury Communication  
4 Number 7. Let me just read it. I'm not sure it's really  
5 anything but logistics, but it states: "If additional days  
6 are needed beyond today, a few jurors have other obligations  
7 and cannot do tomorrow (Friday) and would prefer to continue  
8 Monday. Today we can go until 5 p.m."

9 So I think the jurors are just telling me, look,  
10 they're able to deliberate until 5:00. They don't know if  
11 they'll need more time than that, but if they do, they'd like  
12 to reconvene Monday because of commitments for tomorrow.

13 I don't have any concern with that message. One, I  
14 don't even know if it will be moot if they can come to some  
15 decision today. If they can't, I'm more concerned about the  
16 jurors, not us. So if they want to give us all a day off and  
17 they're willing to come back Monday to continue deliberations,  
18 I don't really have a concern there. Let me hear from both of  
19 you. Otherwise, I'm going to tell them this is fine.

20 MR. MARKETOS: Fine by us.

21 MS. BROWN: No concern, Your Honor.

22 THE COURT: All right. So I think they just wanted  
23 to let us know. I'm glad they have at least until 5:00 today,  
24 which I think is a significant amount of time.

25 So with that, why don't we get the jurors in here so I

1 can excuse them so they can continue their deliberations.

2 We'll go from there.

3 THE DEPUTY COURT CLERK: All rise.

4 (The jury enters the courtroom at 9:09 a.m.)

5 THE COURT: Good morning, folks. Everybody have a  
6 seat.

7 Good morning, members of the jury. Before I excuse you  
8 for deliberations, I will just put on the record Jury  
9 Communication Number 7, which reads: "If additional days are  
10 needed beyond today, a few jurors have other obligations and  
11 cannot do tomorrow (Friday) and would prefer to continue  
12 Monday. Today we can go until 5 p.m."

13 That's absolutely fine. One, I don't know if this  
14 message will be moot, so why don't you continue with your  
15 deliberations and we will know more by 5 p.m. If you guys are  
16 coming back in here at 5 p.m., I presume that you will  
17 continue deliberations Monday morning at 9:00. But why don't  
18 we just wait to hear from you either at that time or some time  
19 before.

20 With that, I will excuse you all to continue  
21 deliberations, and thank you for being here promptly this  
22 morning.

23 (The jury resumed deliberations at 9:10 a.m.)  
24 folks, have a seat. We're in recess until if, and when, we  
25 hear back from the jurors.

1 MR. MARKETOS: Thank you, Your Honor.

2 MS. BROWN: Thank you, Your Honor.

3 (Court is in recess.)

4 THE DEPUTY COURT CLERK: Please remain seated.

5 THE COURT: All right, everyone.

6 We received Jury Communication Number 8, which reads:

7 "We would like the transcripts for Kim" -- I think it says

8 "Saltana," but we know who it is -- "Candice Long, Mike

9 Iacobellis, and Glenn Mattes."

10 So they're requesting the transcripts of those four  
11 witnesses, Saladana, Long, Iacobellis, and Mattes.

12 My suggestion is the same as we've been doing, which is  
13 I'm going to ask counsel to prepare those redacted transcripts  
14 and if they're ready one at a time, or whenever they're ready,  
15 just to provide them to the courtroom deputy. And as soon as  
16 they're ready, we will provide them to the jurors. And in the  
17 meantime, I'll instruct them to continue deliberating as we're  
18 waiting for the transcripts.

19 Any objection to that process? And if not, I'll bring  
20 them in.

21 MR. MARKETOS: No objection, Your Honor.

22 MS. BROWN: No objection. Thank you.

23 THE COURT: All right. Let's get the jurors in and  
24 I'll let them know.

25 THE DEPUTY COURT CLERK: All rise.

1 (The jury enters the courtroom at 9:55 a.m.)

2 THE COURT: All right, folks. Everybody have a seat.  
3 This will be brief.

4 We received Jury Communication Number 8: "We would  
5 like the transcripts for Kim Saladana, Candace Long, Mike  
6 Iacobellis, and Glenn Mattes."

7 You all know what I'm going to respond. We're going to  
8 provide those transcripts to you all. I would ask you to just  
9 give us a little time because we do have to make those  
10 redactions, and I would ask you, to the extent you can, to  
11 continue deliberating on another subject while you're waiting  
12 for these transcripts, and we will get them to you in short  
13 time.

14 So with that, I'm going to return you back to the jury  
15 room, but we want to keep a record of these responses, and I  
16 appreciate your attention to them.

17 THE DEPUTY COURT CLERK: All rise.

18 (Jury resumes deliberations at 9:55 a.m.)

19 THE COURT: Folks, have a seat.

20 Just keep me posted. You're going to get these to Kim  
21 as soon as they're readily available or when they are. Are  
22 you guys going to be working in here, then?

23 MR. MARKETOS: Yes, Your Honor.

24 MS. BROWN: Yes.

25 THE COURT: All right. So just do what you need to

1 do and let's get these transcripts.

2 Kim, they'll get them to you, and we'll go from there.

3 THE DEPUTY COURT CLERK: Okay.

4 (Court is in recess.)

5 THE DEPUTY COURT CLERK: Please remain seated.

6 THE COURT: Haven't seen you all in a while. Good  
7 afternoon. We received Jury Communication Number 9, so let  
8 me -- let me slowly read this, because there's two items, and  
9 then we will discuss, so -- and they're numbered.

10 Number 1: "The jury understands that our findings are  
11 not limited to all or none of the alleged claims and that we  
12 can determine a portion of the claims we find by a  
13 preponderance of the evidence true. Correct?"

14 So that's the first question.

15 And then the second states: "The jury recalls  
16 Professor Shaked providing testimony detailing the number of  
17 federal versus individual state claims. Notwithstanding, we  
18 are unable to locate that testimony or any exhibits associated  
19 with that testimony. Please direct us to where this  
20 information is located."

21 So those are two fairly distinct questions.

22 So -- well, I'll tell you where I'm inclined to go.  
23 I'm going to go with the same philosophy, although these are a  
24 little bit different than the other instructions, and I'm  
25 going to hear from both sides.

1           So I will tell you, in reviewing both the questions,  
2 I'm inclined to answer question number 1 after reviewing the  
3 jury instructions, and I'm inclined to, for question number 2,  
4 direct them back to the evidence as opposed to trying to  
5 assist them in what evidence they should be reviewing.

6           But let me hear from Relators first on -- why don't we  
7 talk about number 1 first, okay?

8           Number 1 is their understanding of whether -- let me  
9 just read this: Their understanding that their findings are  
10 not limited to all or none of the alleged claims, and that  
11 they can determine a portion of the claims that they find by a  
12 preponderance of the evidence true; is that correct?

13           So let me hear from Mr. Marketos first. What is your  
14 suggestion on how I respond to that?

15           MR. MARKETOS: I think the answer is correct.

16           THE COURT: Meaning yes?

17           MR. MARKETOS: Yes.

18           THE COURT: Okay. And Ms. Brown?

19           MS. BROWN: Mr. Wyatt.

20           THE COURT: Mr. Wyatt?

21           MR. WYATT: Yeah, I think it's correct, Your Honor.

22 I just don't under -- I'm not sure I understand exactly what  
23 they're asking since it's framed in a somewhat general way.

24           If it's just -- if the question is, Can we decide  
25 claim 1 and not claim 2, I think the answer to that is yes.



1 If it's, you know, some subset of theories under claim 1 --

2 THE COURT: They're talking about false claims.

3 MR. WYATT: Yeah, so I just don't know though, right,  
4 like it could -- the Relators had like four or five theories  
5 of false claims, so I don't think the verdict form does allow  
6 them to return a partial response on that one, but maybe I'm  
7 missing something.

8 THE COURT: The way I read it, they're just saying,  
9 Are we limited to all or none of the alleged claims, or can we  
10 determine a portion of the false claims if we find by a  
11 preponderance of the evidence? They're just asking whether  
12 it's got to be an exact number or zero, or do we have the  
13 ability to say, We believe these claims are false by a  
14 preponderance of the evidence, and we have the right to choose  
15 that number.

16 MR. MARKETOS: That's right.

17 THE COURT: And I think it's -- I will tell you, I'm  
18 reviewing the jury instructions, too, right? So, initially, I  
19 will tell you my -- my take was to refer them back to  
20 Instruction Number 28, which is number of false claims.

21 The problem is when I review that instruction, it does  
22 not exactly answer the question that they're posing, and I can  
23 see where they might come to that question. If you look at  
24 Instruction Number 28, it says, "If you find that Janssen  
25 violated the False Claims Act, then you must also identify the

1 number of false or fraudulent claims that were submitted to  
2 the United States."

3 Again -- and then it goes on to another paragraph.  
4 What it doesn't say there is the question that they're asking.  
5 So I'm inclined to respond "yes" to that first question. I  
6 don't think that's misleading. I think that is consistent  
7 with the law, and if anything, I'm just clarifying Instruction  
8 Number 28.

9 So that's where I land on number one.

10 MR. WYATT: Yeah. I mean, I guess as long as there's  
11 evidence in the record to support it, that would be correct.  
12 Again, it's hard to evaluate that without knowing what they're  
13 asking, but I agree with what the Court is saying.

14 THE COURT: All right. That's how I'm going to  
15 respond to question number one. My response is simply to be  
16 yes.

17 Number two, let me hear from Mr. Marketos first on  
18 number two.

19 MR. MARKETOS: Could you read it back to me,  
20 Your Honor?

21 THE COURT: I can. And let me do this a little bit  
22 slower, and I apologize for that. I probably should have made  
23 copies, but my practice is simply to read these communications  
24 to you all.

25 So number two reads: "The jury recalls

1 Professor Shaked providing testimony detailing the number of  
2 federal versus individual state claims. Notwithstanding, we  
3 are unable to locate that testimony or any exhibits associated  
4 with that testimony. Please direct us to where this  
5 information is located."

6 So that's -- it's a request. It's not a question.  
7 They're -- they're indicating that they recall certain  
8 testimony from Dr. Shaked versus talking about the number of  
9 federal versus state -- individual state claims.

10 MR. MARKETOS: That's right.

11 THE COURT: They're having some trouble, it appears,  
12 to locate that testimony and any exhibits associated with that  
13 testimony, and they're asking the Court to direct them to  
14 where that evidence is, which I am not inclined to do.

15 So I'm asking you: What is your response to that?

16 MR. MARKETOS: You're right not to be inclined to do  
17 it.

18 THE COURT: I mean, for me, it's almost like I'm  
19 stepping into the shoes of the jurors, and I wouldn't -- and  
20 by the way, if this question was reversed, and I want to be  
21 very clear, if it was, We recall Dr. Jena stating A, B, and,  
22 C, tell me where that testimony and the exhibits associated  
23 with that testimony are.

24 I would not direct a jury to focus. Their job is to  
25 locate and review the evidence before them, and if they're

1 having trouble finding it, then they have to look harder, or  
2 maybe their recollection isn't accurate, right? Because all  
3 they're telling me is they recall some testimony and they  
4 can't find the evidence to support their recollection.

5 So I just want to be clear. So it sounds like you  
6 agree with me, Mr. Marketos?

7 MR. MARKETOS: Yeah. I don't -- I don't think  
8 Your Honor can direct them to a portion of the record. The  
9 answer to that is -- the answer to it is it's a combination of  
10 a document and testimony that was elicited, including elicited  
11 from Dr. Jena, about Professor Shaked's breakdown.

12 And so there's a -- there are documents in evidence,  
13 and we put them up during closing. So that's the issue, but  
14 the question is how do you -- what to do about that.

15 I think Your Honor's right. I don't think -- I think  
16 it would be -- I don't think the Court can direct them to  
17 specific evidence, and even though it would be favorable to --

18 THE COURT: I appreciate that. And, Mr. Wyatt, I  
19 presume you agree?

20 MR. WYATT: Yeah. I agree and agree with Your Honor  
21 that that's sort of a general proposition.

22 THE COURT: Let me ask you all this though: How do I  
23 respond to it? So I'm basically just taking notes because  
24 I -- I also want to avoid getting another question like this.  
25 So I guess I was going to -- let me just -- let me just word

1 it for you.

2 With respect to request number two, my response is I  
3 will direct you back to the evidence presented and it is for  
4 you and you alone to review that evidence.

5 MR. MARKETOS: Yeah. Review the evidence you've been  
6 provided, I think, is the -- is the right response.

7 THE COURT: To review -- sorry?

8 MR. MARKETOS: All the evidence you have been  
9 provided.

10 THE COURT: All the evidence you have been provided.  
11 Let me just read that again. Number one, yes.

12 Number two, my response is, I will direct you to the  
13 evidence presented and it is for you and you alone to review  
14 all the evidence that you have been provided.

15 Any objection to that?

16 MR. WYATT: Well, sort of, only because they haven't  
17 been provided all testimony. They've been provided some of  
18 it, so I think I would say all the evidence available to you.

19 THE COURT: I don't have any objection to that. The  
20 evidence available to you? Is there -- I mean, I feel like  
21 we're just --

22 MR. WYATT: Or just all the evidence. But other than  
23 that, that sounds right to me.

24 THE COURT: All right.

25 MR. MARKETOS: I think it was aptly stated before.

1 THE COURT: Let me just read it, and maybe it's  
2 simply this way. My response is: I will direct you to the  
3 evidence presented and it is for and you alone to review all  
4 the evidence.

5 I don't see how that's misleading. I mean, all the  
6 evidence is all the evidence. I'm not limiting it to  
7 anything. They know what the evidence is that was presented  
8 at trial. To the extent they requested some transcripts or  
9 not, we don't need to differentiate that.

10 I think I'm just going to say, You have to review the  
11 evidence. I think it's going to be pretty clear in how I say  
12 it and what I say, the meaning behind it, which is they have  
13 to do their jobs and we can't do that for them.

14 MR. MARKETOS: Yes. I think we're all on the same  
15 page, Your Honor.

16 THE COURT: Okay. All right. Then, folks, let me  
17 get them in here because they still have about 25 minutes left  
18 of deliberations, and I want them to continue at least until  
19 they're done, but...

20 Kim, do you mind? Thanks.

21 THE DEPUTY COURT CLERK: All rise.

22 (The jury enters the courtroom at 4:36 p.m.)

23 THE COURT: Folks, everybody have a seat.

24 Regarding Jury Communication Number 9, I'll read the  
25 two -- well, the question and request, and then I'll respond

1 for you folks and hopefully give you a little more time to  
2 deliberate.

3 With respect to number one, "The jury understands that  
4 our findings are not limited to all or none of the alleged  
5 claims and that we can determine a portion of the claims we  
6 find by a preponderance of the evidence true. Correct?"

7 My response to you on that question is "yes."

8 On number two, it reads: "The jury recalls  
9 Professor Shaked providing testimony detailing the number of  
10 federal versus individual state claims. Notwithstanding, we  
11 are unable to locate that testimony or any exhibit associated  
12 with that testimony. Please direct us to where this  
13 information is located."

14 My response to request number two is I will direct you  
15 to the evidence presented and it is for you and you alone to  
16 review all the evidence.

17 So those are my responses to both one and two, and with  
18 that, folks, I appreciate it. I'm going to let you back to  
19 continue with your deliberations.

20 THE DEPUTY COURT CLERK: All rise.

21 (The jury resumed deliberations at 4:37 p.m.)

22 THE COURT: All right, folks. Why don't you all have  
23 a seat. You may want to stick around. We only have about  
24 25 minutes left before, I think, they need to break for the  
25 day. We don't even know whether we're going to get another

1 communication other than whether they're done. Why don't you  
2 all stick around, and we'll wait and see.

3 (A short recess occurred.)

4 THE DEPUTY COURT CLERK: Please remain seated.

5 THE COURT: All right. Folks, we received Jury  
6 Communication Number 10. It reads "We have a verdict."

7 So, Mr. Marketos, anything before I get the jurors in?

8 MR. MARKETOS: No, Your Honor.

9 THE COURT: Ms. Brown?

10 MS. BROWN: No. Thank you, Your Honor.

11 THE COURT: All right. So, Kim, why don't we get  
12 these folks.

13 THE DEPUTY COURT CLERK: Okay.

14 THE COURT: Then we'll see what's what.

15 THE DEPUTY COURT CLERK: All rise.

16 (The jury enters the courtroom at 5:03 p.m.)

17 THE COURT: All right. Folks, thank you. Everybody  
18 have a seat.

19 I received Jury Communication Number 10 which reads,  
20 "We have a verdict."

21 Before I get to the verdict, I want to take a roll call  
22 on the record for each juror, 1 through 8. I'm going to call  
23 the juror number, and if you can just state your number and  
24 "present" so we have a record that you're in the courtroom.

25 Juror number 1?



1 JUROR: Here. Juror number 1 here.

2 THE COURT: Juror number 2?

3 JUROR: Juror number 2 here.

4 JUROR: Juror number 3 here.

5 JUROR: Juror number 4 here.

6 JUROR: Number 5 here.

7 JUROR: Juror number 6 here.

8 JUROR: Juror number 7 here.

9 JUROR: Juror number 8 here.

10 THE COURT: All right. Thank you.

11 Mr. Foreperson, would you please rise at this time.

12 Has the jury reached a verdict?

13 JUROR: Yes, it has, Your Honor.

14 THE COURT: Is the verdict unanimous?

15 JUROR: Yes, it is, Your Honor.

16 THE COURT: At this time I'm going to ask my  
17 courtroom deputy just to come over and grab the verdict sheet  
18 so I can inspect it, okay?

19 At this time, Kim -- I'm going to return the verdict  
20 sheet to you, Mr. Foreperson.

21 All right. I'm going to ask you at this time -- I'm  
22 going to read through the questions. I'm going to ask you to  
23 give the jurors' responses on the verdict sheet, and I'm going  
24 to go through each question one by one in order, okay?

25 In the matter of the United States of America, Jessica

1 Penelow versus Janssen Products LP, the docket number is  
2 12-7758, the verdict sheet read s: "With respect to question  
3 1, which asked did the Relators prove by a preponderance of  
4 the evidence that Janssen violated the False Claims Act by  
5 unlawfully promoting Prezista or Intelence?"

6 How do you find?

7 JUROR: We find they did, Your Honor.

8 THE COURT: All right. With respect to question 2,  
9 which asks, "What number of false claims, if any, did Relators  
10 prove that Janssen caused to be submitted as a result of any  
11 False Claims Act violations you found in question 1," how did  
12 you find with respect to the number of false claims?

13 JUROR: We found for 159,574.

14 THE COURT: And with respect to question 3, which  
15 asks, "What amount of damages, if any, did Relators prove by a  
16 preponderance of the evidence that the United States sustained  
17 as a result of any False Claims Act violations you found in  
18 question 1," how did you find respect to that?

19 THE WITNESS: We found for \$120,004,736.

20 THE COURT: With respect to question 4, which asks,  
21 "Did Relators prove by a preponderance of the evidence that  
22 Janssen violated the federal False Claims Act by violating the  
23 Anti-Kickback Statute," how do you find?

24 THE WITNESS: We found no.

25 THE COURT: I'm going to question 7.

1 With respect to question 7, it -- well, I presume with  
2 question 5 then, your number is -- what is the number for  
3 question 5, zero?

4 JUROR: Yes, Your Honor.

5 THE COURT: With respect to question 6, the number is  
6 zero?

7 JUROR: Yes, Your Honor.

8 THE COURT: All right. Moving on to question 7, it  
9 asks, "Did Relators prove by a preponderance of the evidence  
10 that Janssen violated the state False Claims Acts of any  
11 states identified in the verdict form by unlawfully promoting  
12 Prezista or Intelence?"

13 I'll go through each of the states listed in the  
14 verdict form one at a time, and for each state, please tell me  
15 if the jury found either yes or no for that particular state.

16 How did you find for California?

17 JUROR: Yes.

18 THE COURT: How did you find for Colorado?

19 JUROR: Yes.

20 THE COURT: How did you find for Connecticut?

21 JUROR: Yes.

22 THE COURT: How did you find for Delaware?

23 JUROR: Yes.

24 THE COURT: How did the jury find for Florida?

25 JUROR: Yes.

1 THE COURT: How did the jury find for Georgia?

2 JUROR: Yes.

3 THE COURT: How did jury find for Hawaii?

4 JUROR: Yes.

5 THE COURT: How did the jury find for Illinois?

6 JUROR: Yes.

7 THE COURT: How did the jury find for Indiana?

8 JUROR: Yes.

9 THE COURT: How did the jury find for Iowa?

10 JUROR: Yes.

11 THE COURT: How did the jury find for Louisiana?

12 JUROR: Yes.

13 THE COURT: How did the jury find for Massachusetts?

14 JUROR: Yes.

15 THE COURT: How did the jury find for Michigan?

16 JUROR: Yes.

17 THE COURT: How did the jury find for Minnesota?

18 JUROR: Yes.

19 THE COURT: How did the jury find for Montana?

20 JUROR: Yes.

21 THE COURT: How did the jury find for Nevada?

22 JUROR: Yes.

23 THE COURT: How did the jury find for New Jersey?

24 JUROR: Yes.

25 THE COURT: How did the jury find for New Mexico?

1 JUROR: Yes.

2 THE COURT: How did the jury find for New York?

3 JUROR: Yes.

4 THE COURT: How did the jury find for North Carolina?

5 JUROR: Yes.

6 THE COURT: How did the jury find for Oklahoma?

7 JUROR: Yes.

8 THE COURT: How did the jury find for Rhode Island?

9 JUROR: Yes.

10 THE COURT: How did the jury find for Tennessee?

11 JUROR: Yes.

12 THE COURT: How did jury find for Texas?

13 JUROR: Yes.

14 THE COURT: How find jury find for Virginia?

15 JUROR: Yes.

16 THE COURT: How did the jury find for Washington?

17 JUROR: Yes.

18 THE COURT: How did the jury find for the District of

19 Columbia?

20 JUROR: Yes.

21 THE COURT: With respect to question 8, which asks,

22 "What amount of damages, if any, did Relators prove by a

23 preponderance of the evidence that the states sustained as

24 result of any violations you found in question 7," how did you

25 find?

1 JUROR: We found for the damage in \$30,001,184.

2 THE COURT: Question 9 asks, "Did Relators prove by a  
3 preponderance of the evidence that Janssen violated the  
4 states' False Claims Acts of any of the states identified in  
5 the verdict form by violating the Anti-Kickback Statute?"

6 I'll go through each of the states listed in the  
7 verdict form one at a time and for each state, please tell me  
8 if the jury found either "yes" or "no" for that particular  
9 state.

10 How did the jury find for California?

11 JUROR: No.

12 THE COURT: How did the jury find for Colorado?

13 JUROR: No.

14 THE COURT: How did the jury find for Connecticut?

15 JUROR: No.

16 THE COURT: How did the jury find for Delaware?

17 JUROR: No.

18 THE COURT: How did the jury find for Florida?

19 JUROR: No.

20 THE COURT: How did the jury find for Georgia?

21 JUROR: No.

22 THE COURT: How did the jury find for Hawaii?

23 JUROR: No.

24 THE COURT: How did the jury find for Illinois?

25 JUROR: No.

1 THE COURT: How did the jury find for Illinois?

2 JUROR: No.

3 THE COURT: How did the jury find for Iowa?

4 JUROR: No.

5 THE COURT: How did the jury find for Louisiana?

6 JUROR: No.

7 THE COURT: How did the jury find for Massachusetts?

8 JUROR: No.

9 THE COURT: How did the jury find for Michigan?

10 JUROR: No.

11 THE COURT: How did the jury find for Minnesota?

12 JUROR: No.

13 THE COURT: How did the jury find for Montana?

14 JUROR: No.

15 THE COURT: How did the jury find for Nevada?

16 JUROR: No.

17 THE COURT: How did the jury find for New Jersey?

18 JUROR: No.

19 THE COURT: How did the jury find for New Mexico?

20 JUROR: No.

21 THE COURT: How did the jury find for New York?

22 JUROR: No.

23 THE COURT: How did the jury find for North Carolina?

24 JUROR: No.

25 THE COURT: How did the jury find for Oklahoma?

1 JUROR: No.

2 THE COURT: How did the jury find for Rhode Island?

3 JUROR: No.

4 THE COURT: How did the jury find for find for  
5 Tennessee?

6 JUROR: No.

7 THE COURT: How did the jury find for Texas?

8 JUROR: No.

9 THE COURT: How did the jury find for Virginia?

10 JUROR: No.

11 THE COURT: And how did the jury find for Washington?

12 JUROR: No.

13 THE COURT: Lastly, how did the jury find for the  
14 District of Columbia?

15 JUROR: No.

16 THE COURT: All right. With respect to question 10,  
17 the number is zero?

18 JUROR: Yes, Your Honor.

19 THE COURT: All right. Now, I know the parties may  
20 not have requested it, but it's my practice to poll the  
21 jurors.

22 So I'm going to poll the jury to ensure that this is,  
23 in fact, a unanimous verdict. I'm going to call on each of  
24 the jurors and then one at a time I'm going to ask you if the  
25 verdict -- if your verdict is the verdict that I just -- that



1 was just read in open court.

2 Juror number 1, is this your verdict?

3 JUROR: Yes.

4 THE COURT: Juror number 2, is this your verdict?

5 JUROR: Yes.

6 THE COURT: Juror number 3, is this your verdict?

7 JUROR: Yes.

8 THE COURT: Juror number 4, is this your verdict?

9 JUROR: Yes.

10 THE COURT: Juror number 5, is this your verdict?

11 JUROR: Yes.

12 THE COURT: Juror number 6, is this your verdict?

13 JUROR: Yes.

14 THE COURT: Juror number 7, is this your verdict?

15 JUROR: Yes.

16 THE COURT: Juror number 8, is this your verdict?

17 JUROR: Yes.

18 THE COURT: All right. Counsel, do I need to see you

19 at sidebar before I excuse the jurors? Anything we need to

20 speak about before I dismiss them to the jury room?

21 MR. MARKETOS: No, Your Honor.

22 MS. BROWN: No, Your Honor.

23 THE COURT: All right. Folks, briefly, I do want to  
24 thank you again for your service. I know this has been a long  
25 couple of weeks. I know there were several claims for you to

1 view, so I'm going to dismiss the jurors at this time from the  
2 trial.

3 I will say that if for any of you, if you have a few  
4 minutes before you leave the courthouse, I would be happy to  
5 speak with you in chambers, but if you are leaving the  
6 courthouse, you need to go somewhere, do not feel that this is  
7 required. But if you have a few moments, I need to speak with  
8 the lawyers, and then I'd like to meet with you briefly before  
9 you leave the courthouse, if you have the time.

10 So with that, I'm going to excuse the jurors. Thank  
11 you again for your service.

12 THE DEPUTY COURT CLERK: All rise. All rise.

13 (Jury dismissed from service at 5:13 p.m.)

14 THE COURT: Folks, have a seat.

15 All right. Do we need to do anything today? I'm sure  
16 there are going to be things that we need to address, but,  
17 Mr. Marketos, let me know, is there anything that we need to  
18 address today or anything that's worth coming -- besides the  
19 Rule 50 motion? I understand that, but are there other issues  
20 that we are going to need to address, now that we have the  
21 verdict?

22 MR. MARKETOS: Not for purposes of the --

23 THE COURT: Sorry.

24 MR. MARKETOS: -- Relators. Not for our purposes,  
25 Your Honor. I was only going to ask what your practice is

1 with respect to permitting us to speak with the jurors or  
2 permitting them to speak with us?

3 THE COURT: I usually do not allow that practice. So  
4 is that something that's being requested? I will tell you  
5 just -- when I speak with them, just so you're clear, I speak  
6 with them about process.

7 In fact, I tell them at the outset, I will not discuss  
8 this case at all. It's really more about their process as  
9 jurors, are there things that we can do better with the  
10 process of them serving as jurors? Are there things that we  
11 need to do better as far as moving the case for them? Are  
12 there issues with the deliberations room, with how they're  
13 reviewing evidence?

14 It's pretty administrative. I don't have any  
15 discussions with them about counsel or the case. That's been  
16 my practice. I don't want to have any interference with these  
17 jurors post-verdict, and that's been my practice.

18 MR. MARKETOS: I understand that, Your Honor.

19 THE COURT: Do you guys want me to ask them something  
20 about attorney performance or counsel performance?

21 MR. MARKETOS: No. No, I don't want to ask about us,  
22 Your Honor. It is extremely helpful to the process to learn  
23 from the jurors, if they so choose. Maybe would they be  
24 permitted to contact us in the future?

25 THE COURT: Yeah. I don't prohibit jurors from

1 discussing the case now that they've given a verdict, but I'm  
2 not going to coordinate that for you all.

3 MR. MARKETOS: No, no. I just meant can they be  
4 informed that they're free to contact us, if they so desire?

5 THE COURT: I'll let them know that they're free to  
6 speak about the case to anyone, including you all now that the  
7 case is over. I don't have any objection to that. I just  
8 don't like to be involved in that process.

9 MR. MARKETOS: Thank you, Your Honor.

10 THE COURT: And I don't want to -- okay.

11 Ms. Brown, anything that we need to speak about today?  
12 And I'm sure there are other -- or Mr. Wyatt? I know there  
13 may be some issues to address posttrial, but I don't know if  
14 we need to address something before I let you guys go home for  
15 the day. I'm happy to hear from you.

16 MR. WYATT: I don't think there's anything we need to  
17 address today. I'll just have questions about the timing and  
18 the length of the Rule 50 briefing, but I think we can take  
19 that up at another time.

20 THE COURT: Yeah. I mean, look, you can -- I mean,  
21 correct me if I'm wrong, because I'm sure you folks have  
22 checked it, but it's, what, 28 days in the rule to file the  
23 motion?

24 MR. WYATT: 28 days following judgment.

25 THE COURT: Following the judgment. So, I mean, I

1 don't know what -- is there some -- are you looking to do a  
2 hefty briefing on this or --

3 MR. WYATT: Yeah, it will be a significant brief,  
4 Your Honor. I think we'll definitely need an extension from  
5 the page limit.

6 THE COURT: All right. Why don't you do this then:  
7 I mean, make the request. I mean, take a look at what you're  
8 going to be doing first in the brief before you make the  
9 request.

10 MR. WYATT: Yes.

11 THE COURT: But if you really believe that you need  
12 it, I'm not necessarily going to curtail that for you, but you  
13 guys can do that in short time. You can just file a letter on  
14 the docket saying you're requesting an extension of the page  
15 limitation, and I'm inclined to grant that.

16 But I'd like you to at least do your due diligence  
17 first before you ask it prematurely.

18 MR. WYATT: We'll do that, Your Honor.

19 THE COURT: What else? Anything else, folks?

20 MR. MARKETOS: That means we don't need to be here on  
21 Monday, Your Honor?

22 THE COURT: That is correct.

23 MR. MARKETOS: I know you're going to miss us, and  
24 Megan especially, but we haven't seen our families in a month  
25 and a half, so we're going to make sure we didn't --

1 THE COURT: There's no reason to come back. I mean,  
2 look, I didn't know if we would get a verdict today or Monday,  
3 but it sounds like they were close based on where they were.

4 But as far as I'm concerned, folks, we're adjourned.  
5 And, again, I've already put this on the record, but I  
6 appreciate all your efforts during the trial. And it was a  
7 partial verdict, so maybe everybody got a piece of this.

8 So that's all I can tell you.

9 So with that, anything furthers from Relators?

10 MR. MARKETOS: Just thank you from us, Your Honor,  
11 and this is again not kissing up, but the punctuality, the way  
12 that the Court was run, literally walking through the door at  
13 8:00 or 9:00, taking breaks within ten minutes is like nothing  
14 I've ever seen before.

15 THE COURT: I appreciate that.

16 MR. MARKETOS: It was run like the most efficient  
17 courtroom that I've been in.

18 THE COURT: I appreciate that. I do.

19 MR. MARKETOS: So thank you for that.

20 THE COURT: Ms. Brown, anything further from  
21 Janssen Products?

22 MS. BROWN: No. Thank you as well, Your Honor, very  
23 much and your staff for all the work over the last month and a  
24 half. We appreciate it.

25 THE COURT: All right. It was a pleasure having all

1 of you in the courtroom.

2 So with that, go see your families, enjoy the weekend,  
3 and I'm sure we'll be in touch soon, so be well.

4 MS. BROWN: Thank you, Your Honor.

5 MR. MARKETOS: Thank you, Your Honor.

6 MR. KLEIN: Thank you, Your Honor.

7 MR. WYATT: Thank you, Your Honor.

8 THE DEPUTY COURT CLERK: All rise.

9 (Court concludes at 5:18 p.m.)  
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FEDERAL OFFICIAL COURT REPORTER'S CERTIFICATE.

- - - - -

I certify that the foregoing is a correct transcript from  
the record of proceedings in the above-entitled matter.

I

/S/ Megan McKay-Soule, RDR, CRR

June 13, 2024

Court Reporter

Date



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